

# **MAINE**

## **Forest Practices Act**

Revised to include changes through July 1, 2004

Printed July 29, 2004



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## **TITLE 12: CONSERVATION**

### **PART 11: FORESTRY**

#### **Chapter 805: COOPERATIVE FORESTRY MANAGEMENT**

##### **Subchapter 3-A: FOREST PRACTICES**

###### **§8866. Purpose**

The Legislature finds and declares that the State's forests are resources of great significance to the people of the State. These resources have great economic value, environmental value, scenic beauty and unique characteristics and unsurpassed recreational, cultural and historical values of present and future benefit to the citizens of the State. The well-being of communities of the State depends upon sustainable forest management. Liquidation harvesting is a serious and direct threat to forest management, forest industries and rural communities over the landscape of Maine. Liquidation harvesting produces significant adverse economic and environmental effects and threatens the health, safety and general welfare of the citizens of the State. Liquidation harvesting is incompatible with responsible forest stewardship and must be substantially eliminated. [2003, c. 422, Pt. A, §1 (new).]

###### **§8867-A. Rulemaking**

No later than November 1, 1998, the Commissioner of Conservation shall provisionally adopt rules in accordance with Title 5, chapter 375 to implement this subchapter. Rules adopted pursuant to this subchapter are major substantive rules as defined in Title 5, chapter 375, subchapter II-A and must be submitted to the Legislature no later than January 1, 1999 for review. [1997, c. 720, §2 (new).]

The Commissioner of Conservation shall consult with the Commissioner of Environmental Protection and the Commissioner of Inland Fisheries and Wildlife to ensure that bureau rules are consistent with wildlife habitat and environmental protection. [1997, c. 720, §2 (new).]

###### **§8867-B. Regulation of timber harvesting activities in areas adjacent to rivers, streams, ponds, wetlands and tidal waters**

In accordance with the purposes of chapter 206-A and Title 38, chapter 3 and no later than October 1, 2003, the Commissioner of Conservation shall adopt rules in accordance with Title 5, chapter 375 to establish performance standards for timber harvesting activities in areas adjacent to rivers, streams, ponds, wetlands and tidal waters. The rules must provide the maximum opportunity for flexibility that achieves the goal of protecting the public resources while minimizing the impact on private resources. The initial rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. Subsequent amendments to those rules are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. [2003, c. 335, §2 (amd).]

###### **§8868. Definitions**

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [1989, c. 555, §10 (new).]

**1. Clear-cut.** "Clear-cut" means any timber harvesting on a forested site greater than 5 acres in size that results in a residual basal area of trees over 4 1/2 inches in diameter measured at 4 1/2 feet above the ground of less than 30 square feet per acre, unless, after harvesting, the site has a well-distributed stand of acceptable growing stock, as defined by rule, of at least 3 feet in height for softwood trees and 5 feet in height for hardwood trees that meets the regeneration standards defined under section 8869, subsection 1.

[1999, c. 361, §1 (rpr).]

**2. Forest management plan.** "Forest management plan" means a site-specific document signed by a professional forester outlining proposed activities to ensure compliance with performance standards and regeneration requirements established pursuant to this subchapter. [1989, c. 555, §10 (new).]

**2-A. Parcel.** "Parcel" means a contiguous tract or plot of forest land owned by a landowner. Multiple contiguous tracts, plots or parcels of forest land owned by the same landowner are considered a single parcel for the purposes of this subchapter.

[1997, c. 720, §4 (new).]

**2-B. (TEXT EFFECTIVE UNTIL 7/1/06) Outcome-based forest policy.** "Outcome-based forest policy" means a science-based, voluntary process to achieve agreed-upon economic, environmental and social outcomes in the State's forest, as an alternative to prescriptive regulation, demonstrating measurable progress towards achieving statewide sustainability goals and allowing landowners to use creativity and flexibility to achieve objectives, while providing for the conservation of public trust resources and the public values of forests. This subsection is repealed July 1, 2006.

[2001, c. 339, §2 (new).]

**2-B. (TEXT REPEALED 7/1/06) Outcome-based forest policy.**

[2001, c. 339, §2 (new); T. 12, §8868, sub-§2-B (rp).]

**3. Professional forester.** "Professional forester" means a person licensed pursuant to Title 32, chapter 76.

[2001, c. 261, §2 (amd).]

**3-A. Separation zone.** "Separation zone" means an area that surrounds a clear-cut and separates it from other clear-cuts.

[1997, c. 720, §5 (new).]

**4. Timber harvesting.** "Timber harvesting" means the cutting or removal of timber for the primary purpose of selling or processing forest products.

[1997, c. 720, §6 (amd).]

**5. Timber harvesting activities.** "Timber harvesting activities" means timber harvesting, the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

[1999, c. 695, §2 (new).]

**6. Liquidation harvesting.** "Liquidation harvesting" means the purchase of timberland followed by a harvest that removes most or all commercial value in standing timber, without regard for long-term forest management principles, and the subsequent sale or attempted resale of the harvested land within 5 years.

[2003, c. 422, Pt. A, §2 (new).]

## §8869. Forest harvest regulations

To promote a healthy and sustainable forest that contains a balance of age classes necessary for a sustainable timber supply and spatial and compositional diversity, forest harvesting and liquidation harvesting are regulated pursuant to this subchapter. [2003, c. 422, Pt. A, §3 (amd).]

**1. Standards for regeneration after harvests.** The commissioner shall adopt rules to ensure adequate regeneration of commercial tree species on a site within 5 years of completion of any timber harvest. Rules to implement this requirement shall include identification of commercial tree species, minimum stocking standards and methods to mitigate inadequate regeneration. In developing regeneration standards, the commissioner shall take into consideration regional differences in forest types, tree species and physiographic conditions.

[1989, c. 555, §10 (new).]

**2. Performance standards for clear-cuts.** The commissioner shall establish, by rule, performance standards for clear-cuts, including limitations on size. These standards shall protect water quality, minimize soil erosion, ensure adequate regeneration, address adverse impacts on wildlife habitat and provide for a healthy and sustainable forest. The commissioner shall incorporate regional variations in developing performance standards that consider growing conditions, tree species and site quality.

[1989, c. 555, §10 (new).]

**2-A. Separation zones.** A clear-cut must be separated from any other clear-cut by at least 250 feet except where a property line is closer than 250 feet from the edge of the clear-cut. Unless an exemption is provided in rules adopted pursuant to section 8867-A, a separation zone must be equal to or greater than the area clear-cut.

[1999, c. 361, §2 (amd).]

**3. Forest management plans for clear-cuts over 20 acres.** For a clear-cut of 20 acres or more, the landowner, or agent of the landowner, shall develop, prior to harvest, a forest management plan for that clear-cut signed by a professional forester that conforms to

the standards set forth in subsections 1 and 2. The plan must state the purpose of the clear-cut. This plan must be kept on file by the landowner or agent of the landowner and be available for inspection by the bureau until adequate regeneration in accordance with the standards set forth in subsection 1 is established.

[1999, c. 361, §3 (amd).]

**3-A. (TEXT EFFECTIVE UNTIL 7/1/06) Plans for experimental areas.** Practices applied on an experimental area created pursuant to section 8003, subsection 3, paragraph Q must provide at least the equivalent forest and environmental protection as provided by existing rules and any applicable local regulations. At a minimum, tests of outcome-based principles must address:

A. Soil productivity; [2001, c. 339, §3 (new).]

B. Water quality, wetlands and riparian zones; [2001, c. 339, §3 (new).]

C. Timber supply and quality; [2001, c. 339, §3 (new).]

D. Aesthetic impacts of timber harvesting; [2001, c. 339, §3 (new).]

E. Biological diversity; and [2001, c. 339, §3 (new).]

F. Public accountability. [2001, c. 339, §3 (new).]

The Governor shall appoint a panel of technical experts to work with the director to implement, monitor and assess tests of outcome-based forestry principles. In order to participate in the outcome-based forestry experiment, the landowner, director and technical panel must develop agreed-upon desired outcomes for the experimental area and develop a method for determining if the outcomes have been attained and a system for reporting results to the public. This subsection is repealed July 1, 2006. [2001, c. 339, §3 (new).]

**3-A. (TEXT REPEALED 7/1/06) Plans for experimental areas.**

[2001, c. 339, §3 (new); T. 12, §8869, sub-§3-A (rp).]

**4. Exemption for natural disaster.** If the regeneration on a harvested clear-cut, or portion thereof, is destroyed by fire, disease, insect infestation or other natural disaster, the regeneration requirement does not apply. Vegetative cover sufficient to prevent accelerated erosion must be established on the site.

[1989, c. 555, §10 (new).]

**5. Variance.** The commissioner shall establish, by rule, standards to permit activities that exceed the standards set forth under subsection 2. In developing standards, the commissioner shall consider the unique characteristics of a site and any related economic hardship which would result from noncompliance with these standards.

[1989, c. 555, §10 (new).]

**6. Transfer or sale of property.** Upon sale or other transfer of ownership of land that has been harvested, the transferee becomes responsible for the regeneration requirements on the site. The transferor shall disclose in writing to the transferee the regeneration requirements of this section at, or prior to, the time of sale or transfer. Failure of the transferor to comply with the disclosure requirement shall result in the transferor being responsible for compliance with the regeneration requirements of subsection 1.

[1989, c. 555, §10 (new).]

**7. Application.** This section applies to all forest lands within the State, including land in municipal and state ownership. Except as provided in subsection 7-A, only state-owned or operated research forests or industrially owned research forests certified by the commissioner are exempt from these requirements.

[2001, c. 339, §4 (amd).]

**7-A. (TEXT EFFECTIVE UNTIL 7/1/06) Exemption for outcome-based forest policy experimental areas.** Outcome-based forest policy experimental areas designated under section 8003, subsection 3, paragraph Q are exempt from the requirements of this subchapter and rules adopted pursuant to this subchapter. This subsection is repealed July 1, 2006.

[2001, c. 339, §5 (new).]

**7-A. (TEXT REPEALED 7/1/06) Exemption for outcome-based forest policy experimental areas.**

[2001, c. 339, §5 (new); T. 12, §8869, sub-§7-A (rp).]

**8. Relationship to municipal rules and regulations.** Nothing in this subchapter may be construed to preempt or otherwise limit the existing authority of municipalities to regulate harvesting, except that municipalities regulating timber harvesting shall adopt definitions for forestry terms used in their ordinances that are consistent with definitions in section 8868 and with forestry terms adopted by the commissioner pursuant to this subchapter. Municipal timber harvesting ordinances adopted before September 1, 1990 must meet this standard of compliance with definitions no later than January 1, 2001.

A municipality may not adopt an ordinance that is less stringent than the minimum standards established in this section and in rules adopted by the commissioner to implement this section and section 8867-B. A municipality may not adopt or amend an ordinance that regulates timber harvesting unless the process set out in this subsection is followed in the development and review of the ordinance.

A. A licensed professional forester must participate in the development or amendment of the ordinance.

[1999, c. 263, §1 (amd).]

B. A meeting must take place in the municipality during the development or amendment of the ordinance between representatives of the department and municipal officers and officials involved in developing the ordinance. Discussion at the meeting must include, but is not limited to, the forest practices goals of the municipality. At this meeting and subsequently, the department shall provide guidance to the municipality on how the municipality may use sound forestry practices to achieve the municipality's forest practices goals.

[1999, c. 263, §1 (amd).]

C. The municipality shall hold a public hearing to review a proposed ordinance or ordinance amendment at least 45 days before a vote is held on the ordinance. The municipality shall post and publish public notice of the public hearing according to the same general requirements of posted and published notice for zoning ordinance public hearings as provided by Title 30-A, section 4352, subsection 9.

In addition, when a municipality proposes to adopt or amend a timber harvesting ordinance pursuant to its home rule authority as provided by Title 30-A, section 3001, the municipality shall mail notice of the hearing by first-class mail at least 14 days before the hearing to all landowners in the municipality at the last known address of the person on whom a property tax on each parcel is assessed. In the case of a timber harvesting ordinance or amendment that applies only to certain zones or land use districts in the municipality, the municipality may meet the requirements of this paragraph by mailing notice only to those landowners whose land is in a zone or land use district or immediately abutting the affected zone or land use district.

Mailed notice to individual landowners is not required under this subsection for any type of amendment to an existing local land use ordinance merely to conform that ordinance to the minimum timber harvesting guidelines required by Title 38, section 439-A, as those guidelines may be subsequently amended, or to conform any timber harvesting ordinance to the requirements of this section for conformity of definitions when the proposed amendments do not substantially change any previously established timber harvesting standards adopted pursuant to home rule authority.

The municipal officers shall prepare and file with the municipal clerk a written certificate indicating those landowners to whom the notice was mailed and at what addresses, when it was mailed, by whom it was mailed and from what location it was mailed. The certificate constitutes prima facie evidence that notice was sent to those landowners named in the certificate.

Any action challenging the validity of the adoption or amendment of a municipal timber harvesting ordinance based on the municipality's alleged failure to comply with the landowner notice requirement must be brought in Superior Court within 90 days after the adoption of the ordinance or amendment. The Superior Court may invalidate an ordinance or amendment only if the landowner demonstrates that the landowner was entitled to receive a notice under this section, that the municipality failed to send the notice as required, that the landowner had no knowledge of the proposed ordinance or amendment and that the landowner was materially harmed by that lack of knowledge.

[1999, c. 263, §1 (amd).]

D. The municipal clerk shall notify the department of the time, place and date of the public hearing and provide the department with a copy of the proposed ordinance that will be reviewed at the hearing at least 30 days before the date of the hearing.

[1999, c. 263, §1 (amd).]

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E. At the public hearing, representatives of the department must be provided an opportunity to present and discuss for the municipality's information any reports, articles, treatises or similar materials published by acknowledged experts in the field of sound forestry or silvicultural management to the extent such information is relevant to the proposed ordinance or ordinance amendment.

The proposed ordinance or ordinance amendment may be revised after the public hearing. The ordinance or amendment must be submitted to the legislative body of the municipality in accordance with the procedures the municipality uses for adopting ordinances.

[1999, c. 263, §1 (new).]

F. Municipal timber harvesting ordinances may not be unreasonable, arbitrary or capricious and must employ means appropriate to the protection of public health, safety and welfare.

[1999, c. 263, §1 (new).]

G. All direct costs incurred by a municipality associated with landowner notification requirements and other required public notice must be paid to the municipality in accordance with a distribution schedule established under Title 30-A, section 5685, subsection 5. All direct costs incurred by a municipality in order to comply with this subsection for the amendment of ordinances adopted before September 1, 1990 must be paid to the municipality in accordance with a distribution schedule established under Title 30-A, section 5685, subsection 5.

[1999, c. 263, §1 (new).]

[2003, c. 335, §3 (amd).]

**9. Centralized listing of municipal ordinances.** The bureau shall maintain for informational purposes a statewide centralized listing of municipal ordinances that specifically apply to forest practices.

A. Within 30 days after the legislative body of the municipality votes on a timber harvesting ordinance developed according to the procedures of subsection 8, the clerk shall notify the bureau of the outcome and shall file a copy of the ordinance with the bureau.

[1999, c. 263, §2 (rpr).]

**10. Right of enforcement.** Enforcement of this subchapter shall be by any state, county or municipal law enforcement officer, including forest rangers and field foresters of the bureau and wardens of the Department of Inland Fisheries and Wildlife.

[1989, c. 555, §10 (new).]

**11. Right of entry.** Agents of the bureau have rights of access to all lands within the State to carry out the duties they are authorized by law to administer and enforce. This subsection does not authorize entry into any building or structure.

[1997, c. 694, §1 (amd).]

**12. Right of action.** A landowner found in violation of this section and penalized under section 9701 as a result of actions of a harvester has a right of action to recover the penalty against the harvester who undertook the harvest operation found in violation. In addition to all other defenses permitted by law, it is a defense that the harvester operated under the landowner's instructions. For the purposes of this subsection, the terms "harvester" and "harvest operation" have the same meanings as in section 8881.

[1993, c. 217, §1 (new).]

**13. (TEXT EFFECTIVE UNTIL 7/1/06) Confidential information.** Information provided to the bureau voluntarily or to fulfill reporting requirements for the purposes of establishing and monitoring outcome-based forest policy experimental areas, as created pursuant to section 8003, subsection 3, paragraph Q, is designated as confidential for the purposes of Title 1, section 402, subsection 3, paragraph A if the bureau has determined that failure to designate the information as confidential would provide competitors an opportunity to obtain business or competitive advantage over the person to whom the information belongs or pertains or would result in loss or other significant detriment to that person. The bureau, working with the landowner and the panel of technical experts appointed under subsection 3-A, may publish reports as long as those reports do not reveal confidential information. This subsection is repealed July 1, 2006.

[2001, c. 339, §6 (new).]

**13. (TEXT REPEALED 7/1/06) Confidential information.**

[2001, c. 339, §6 (new); T. 12, §8869, sub-§13 (rp).]

**14. Substantial elimination of liquidation harvesting.** The commissioner shall adopt rules to substantially eliminate liquidation harvesting. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

[2003, c. 422, Pt. A, §4 (new).]

## §8870. Penalties

**1. Civil violation.** A person who violates a rule adopted pursuant to section 8869, subsection 14 or a condition or term of a permit, variance or decision issued by the director or the commissioner in accordance with rules adopted pursuant to section 8869, subsection 14 commits a civil violation.

[2003, c. 694, §1 (new).]

**2. Penalty.** Except as provided in subsection 3, the following penalties apply to violations of this section.

- A. A person who violates this section commits a civil violation for which a fine of not less than \$100 and not more than \$1,000 may be adjudged for each day of that violation.
- B. A person who violates this section after having previously been adjudicated of a violation of this section within the previous 5-year period commits a civil violation for which a fine of not less than \$1,000 but not more than \$2,000 may be adjudged for each day of that violation.

[2003, c. 694, §1 (new).]

**3. Economic benefit.** If the economic benefit resulting from the violation exceeds the applicable penalties under subsection 2, the maximum fines may be increased. The maximum fine may not exceed an amount equal to twice the economic benefit resulting from the violation. The bureau shall consider as economic benefit, without limitation, the costs avoided or the enhanced value accrued at the time of the violation by the violator as a result of not complying with the applicable legal requirements.

[2003, c. 694, §1 (new).]

**4. Effective date.** This section takes effect January 2, 2005

[2003, c. 694, §1 (new).]

## Subchapter 5: FOREST LANDOWNER AND WOOD PROCESSOR REPORTING REQUIREMENTS

### §8881. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [1989, c. 555, §12 (new); c. 600, Pt. B, §11 (aff).]

**1. All-weather road.** "All-weather road" means a public or private road that may be traversed during all seasons of the year.

[1989, c. 555, §12 (new); c. 600, Pt. B, §11 (aff).]

**2. Designated agent.** "Designated agent" means a person, firm, company, corporation or other legal entity representing the landowner in timber sales or land management.

[1989, c. 555, §12 (new); c. 600, Pt. B, §11 (aff).]

**3. Forest products.** "Forest products" means logs, pulpwood, veneer, bolt wood, wood chips, stud wood, poles, pilings, biomass fuel wood, fuel wood or other products commonly known as forest products, but does not include Christmas trees, maple syrup, nursery products used for ornamental purposes, wreaths, bough material, cones or other seed crops.

[1989, c. 555, §12 (new); c. 600, Pt. B, §11 (aff).]

**4. Harvester.** "Harvester" means a person, firm, company, corporation or other legal entity which harvests or contracts to harvest a forest product.

[1989, c. 555, §12 (new); c. 600, Pt. B, §11 (aff).]

**5. Harvest operation.** "Harvest operation" means a harvest of forest products on land in a single municipality or township. Land harvested need not be contiguous and more than one harvester may work a harvest operation.

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[1989, c. 555, §12 (new); c. 600, Pt. B, §11 (aff).]

**5-A. Landowner.** "Landowner" means a person, company or other entity that holds title to land, including joint owners or tenants in common. If the ownership of the timber located on the land is different from the fee ownership of the land, the owner of the timber is deemed to be a landowner and is jointly and severally responsible with the fee landowner for compliance with this subchapter. If a corporate landowner is a wholly owned subsidiary of another corporation, both parent and subsidiary are deemed to be the same landowner.

[2001, c. 603, §1 (new).]

**6. Lump-sum sale.** "Lump-sum sale" means a sale in which the owner of standing timber sells the timber for one price and that price is not broken down by species or product.

[1989, c. 555, §12 (new); c. 600, Pt. B, §11 (aff).]

**7. Precommercial silvicultural activities.** "Precommercial silvicultural activities" means chemical or mechanical thinning operations, planting, stand conversion or timber stand improvement activities where no forest products are sold.

[1989, c. 555, §12 (new); c. 600, Pt. B, §11 (aff).]

**8. Residue.** "Residue" means by-products of a processed log, including, but not limited to bark, woodchips or sawdust.

[1989, c. 555, §12 (new); c. 600, Pt. B, §11 (aff).]

**9. Roundwood.** "Roundwood" means logs, bolts and other round sections of wood as they are cut from a tree.

[1989, c. 555, §12 (new); c. 600, Pt. B, §11 (aff).]

**10. Roundwood processing operation.** "Roundwood processing operation" means sawmills; bolter mills; shingle mills; veneer mills; fence pole and piling making operations; pulp and paper mills; wafer board, particle board and plywood mills; whole tree chippers; commercial fuel wood processors; and custom processing mills of these products.

[1989, c. 555, §12 (new); c. 600, Pt. B, §11 (aff).]

**11. Stumpage.** "Stumpage" means standing timber.

[1989, c. 555, §12 (new); c. 600, Pt. B, §11 (aff).]

## **§8882. Forms**

Forms required under this subchapter must be provided by the bureau and must be written in an easily understandable format. In addition to the information required under section 8883-B, the bureau may request information regarding business practices and workers' compensation coverage. [2003, c. 452, Pt. F, §42 (amd); Pt. X, §2 (aff).]

## **§8883-A. Notification of importing or exporting**

Prior to importing or exporting forest products, a person, firm, corporation or company or a designated agent shall notify the bureau of the intent to import or export forest products. [1995, c. 242, §1 (new).]

**1. Notification prior to importing or exporting.** Notification must be on forms supplied by the bureau and must include the following:

A. The name, address and phone number of the person, firm, corporation or company or designated agent;

[1995, c. 242, §1 (new).]

B. The signature of the person or a manager of the firm, corporation or company or a designated agent; and

[1995, c. 242, §1 (new).]

C. The date of notification.

[1995, c. 242, §1 (new).]

**2. Notification form on file.** The person, firm, corporation or company or designated agent shall retain a copy of the notification form and produce it upon request of agents as specified in section 8888.



[1995, c. 242, §1 (new).]

## §8883-B. Notification

**1. Notification required prior to harvest.** Unless exempted under subsection 6 or by rule, prior to commencing harvesting operations the landowner or designated agent shall notify the bureau of:

A. A harvest operation of 50 cords or less; or

[2003, c. 452, Pt. F, §44 (new); Pt. X, §2 (aff).]

B. A commercial harvest operation of more than 50 cords.

[2003, c. 452, Pt. F, §44 (new); Pt. X, §2 (aff).]

When the harvest is occurring within a municipality, the bureau shall send a copy of the notification form to the municipal clerk.

[2003, c. 452, Pt. F, §44 (new); Pt. X, §2 (aff).]

**2. Notification form.** Unless an alternate form or method of reporting is provided in rule, notification must be on forms supplied by the bureau and must include the following information:

A. The name, address and phone number of the landowner, any designated agent and, if known, any harvester or harvesters;

[2003, c. 452, Pt. F, §44 (new); Pt. X, §2 (aff).]

B. The name and address of any licensed professional forester consulting the landowner on forest management or harvesting practices;

[2003, c. 452, Pt. F, §44 (new); Pt. X, §2 (aff).]

C. The municipality or township and county of harvest;

[2003, c. 452, Pt. F, §44 (new); Pt. X, §2 (aff).]

D. The name of the nearest public or private all-weather road;

[2003, c. 452, Pt. F, §44 (new); Pt. X, §2 (aff).]

E. The approximate dates the harvest will begin and finish;

[2003, c. 452, Pt. F, §44 (new); Pt. X, §2 (aff).]

F. The anticipated acreage to be harvested;

[2003, c. 452, Pt. F, §44 (new); Pt. X, §2 (aff).]

G. An indication whether the land being harvested is taxed under the Maine Tree Growth Tax Law. If the land being harvested is taxed under the Maine Tree Growth Tax Law, the notification must include a statement, signed by the landowner, indicating that the harvest is consistent with the forest management and harvest plan required by Title 36, section 574-B, subsection 1. A licensed professional forester who has a fiduciary responsibility to the landowner may sign the statement required in this paragraph.

Failure to indicate that the harvest is consistent with the forest management and harvest plan constitutes a withdrawal from taxation under the Maine Tree Growth Tax Law of the land being harvested in a manner that is not consistent with the forest management and harvest plan. When such failure is indicated, the director shall notify the assessor for the jurisdiction in which the parcel is located that the land or a portion of the land no longer meets the requirements of Title 36, chapter 105, subchapter 2-A and must be withdrawn in accordance with Title 36, section 581;

[2003, c. 452, Pt. F, §44 (new); Pt. X, §2 (aff).]

H. Whether the land is being harvested to convert to another use within 2 years and, if so, what that use is to be.

If the land being converted to another use is taxed under the Maine Tree Growth Tax Law, notification of a change of land use under this subsection constitutes a withdrawal from taxation under the Maine Tree Growth Tax Law of that portion of land being converted to another use. When a change in land use is indicated, the director shall notify the assessor for the jurisdiction in which the parcel is located that the land or the portion of land no longer meets the requirements of Title 36, chapter 105, subchapter 2-A and

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must be withdrawn in accordance with Title 36, section 581;

[2003, c. 452, Pt. F, §44 (new); Pt. X, §2 (aff).]

I. The signatures of the harvester when listed on the form in accordance with paragraph A and the licensed professional forester when listed on the form in accordance with paragraph B;

[2003, c. 452, Pt. F, §44 (new); Pt. X, §2 (aff).]

J. The signature of the landowner and the signature of the designated agent when a designated agent is listed in accordance with paragraph A. If the designated agent is a licensed professional forester who has a fiduciary responsibility to the landowner, the signature of the landowner is not required;

[2003, c. 452, Pt. F, §44 (new); Pt. X, §2 (aff).]

K. A map locating the harvest site in relation to known or easily identifiable terrain features such as a road junction or a stream and road junction. The map must be a copy of a 7.5 or 15 minute series topographical map produced by the United States Geological Survey or a map of equivalent or superior detail in the location of roads; and

[2003, c. 452, Pt. F, §44 (new); Pt. X, §2 (aff).]

L. The date of notification.

[2003, c. 452, Pt. F, §44 (new); Pt. X, §2 (aff).]

[2003, c. 452, Pt. F, §44 (new); Pt. X, §2 (aff).]

**3. Harvest reporting forms.** Upon receipt by the bureau of the form required under subsection 2, the bureau shall mail forms to the landowner or designated agent for reporting harvest information pursuant to this subchapter.

[2003, c. 452, Pt. F, §44 (new); Pt. X, §2 (aff).]

**4. Notification form on file; posted.** The landowner or designated agent shall retain a copy of the notification form and produce it upon request of agents as specified in section 8888. The landowner or designated agent shall post the notification number at the harvest site in a clearly visible location.

[2003, c. 452, Pt. F, §44 (new); Pt. X, §2 (aff).]

**5. Duration.** A notification shall remain valid for 2 years from the date of issue or upon completion of the harvest, whichever occurs first. If the harvest extends beyond 2 years, a new notice under this section must be filed.

[2003, c. 452, Pt. F, §44 (new); Pt. X, §2 (aff).]

**6. Notification exemption.** The following activities are exempt from the notification requirement under this section:

A. Activities where forest products are harvested for an owner's own use and are not sold or offered for sale or used in the owner's primary wood-using plants;

[2003, c. 452, Pt. F, §44 (new); Pt. X, §2 (aff).]

B. Precommercial silvicultural forestry activities; and

[2003, c. 452, Pt. F, §44 (new); Pt. X, §2 (aff).]

C. Harvesting performed by the landowner within a 12-month period when the total area harvested on land owned by that landowner does not exceed:

(1) Two acres if the residual basal area of acceptable growing stock over 4 1/2 inches in diameter measured at 4 1/2 feet above the ground is less than 30 square feet basal area per acre; or

(2) Five acres if the residual basal area of acceptable growing stock over 4 1/2 inches in diameter measured at 4 1/2 feet above the ground is more than 30 square feet basal area per acre.

[2003, c. 452, Pt. F, §44 (new); Pt. X, §2 (aff).]

[2003, c. 452, Pt. F, §44 (new); Pt. X, §2 (aff).]

**7. Penalties.** The following penalties apply to the failure to notify the bureau pursuant to this section. Each day of failure to notify is a separate offense.

A. Failure to notify the bureau of a harvest operation of 50 cords or less constitutes a civil violation for which a fine of not more than \$50 may be adjudged.

[2003, c. 452, Pt. F, §44 (new); Pt. X, §2 (aff).]

B. Providing inaccurate information on a notification form for a harvesting operation of 50 cords or less is a civil violation for which a fine of not more than \$50 may be adjudged.

[2003, c. 452, Pt. F, §44 (new); Pt. X, §2 (aff).]

C. Failure to notify the bureau of a commercial harvest operation of more than 50 cords constitutes a civil violation for which a fine not to exceed \$1,000 for each occurrence may be adjudged and for which immediate cessation of the operation may be ordered by the court. Continued operation after receiving an order to cease operation constitutes a civil violation for which a fine not to exceed \$1,000 for each day the operation continues may be adjudged.

[2003, c. 452, Pt. F, §44 (new); Pt. X, §2 (aff).]

D. Providing inaccurate information on a notification form for a commercial harvesting operation of more than 50 cords is a civil violation for which a fine of not more than \$1,000 for each occurrence may be adjudged.

[2003, c. 452, Pt. F, §44 (new); Pt. X, §2 (aff).]

## **§8884. Annual wood processing reports**

**1. Wood processor reports.** Owners or operators of all roundwood processing operations shall submit an annual report to the director of the bureau during the month of January for the roundwood used or processed by the operation during the preceding year. The report shall specify the amount of roundwood processed by species and county where cut from the stump.

[1989, c. 555, §12 (new); c. 600, Pt. B, §11 (aff).]

**1-A. Reclaimed waste wood and cedar waste report.** A taxpayer claiming a credit under Title 36, section 5219-F shall submit an annual report to the Director of the Bureau of Forestry, initially by July 1, 1994, and during the month of January thereafter, specifying the source, volume and location of reclaimed wood waste or cedar waste for which a credit has been claimed.

[1991, c. 528, Pt. G, §10 (amd); Pt. RRR (aff); c. 591, Pt. G, §10 (amd).]

**2. Imports and exports.** Persons, firms, corporations or companies selling forest products out of the State or buying forest products to bring into the State shall submit an annual report to the director of the bureau during the month of January for the forest products sold out of the State or brought into the State. The report must also identify the origin of imported forest products by state or country and the destination of exported forest products by state or country.

[1995, c. 242, §2 (amd).]

**3. Confidentiality.** Volume information contained in these reports is confidential and shall not be made public except that summary reports may be published that use aggregated data which do not reveal the activities of an individual person or firm.

[1989, c. 555, §12 (new); c. 600, Pt. B, §11 (aff).]

**4. Failure to submit report; penalty.** Failure to submit reports pursuant to this section constitutes a civil violation for which a fine not to exceed \$1,000 for each failure may be adjudged.

[2003, c. 452, Pt. F, §45 (new); Pt. X, §2 (aff).]

## **§8885. Reports by forest landowners**

**1. Harvest report.** Except as provided in subsection 1-A, an owner of forest land who sells forest products or harvests forest products for that owner's commercial use shall submit a report to the director stating the species, volume and stumpage price per unit of measure for each transaction, the municipality or township where the stumpage was located, the estimated acreage of the harvest, the harvest method employed and the extent of whole-tree harvesting of both solid and chipped wood. For lump-sum sales, the purchaser shall

be responsible for submitting the report.

[1997, c. 720, §14 (amd).]

**1-A. Alternate harvest report.** The director may develop alternate forms for or methods of collecting harvest information from landowners who do not harvest timber on a regular basis. The director shall define landowners subject to the provisions of this subsection and provide report forms pursuant to section 8883-B, subsection 3.

[2003, c. 452, Pt. F, §46 (amd); Pt. X, §2 (aff).]

**2. Precommercial silvicultural practices report.** Owners of forest land on which precommercial silvicultural practices have been performed on more than 10 acres in any year shall report these practices to the director.

[1989, c. 555, §12 (new); c. 600, Pt. B, §11 (aff).]

**2-A. Report on clear-cuts.** When timber harvesting produces a clear-cut as defined in section 8868, the landowner shall report to the director the acreage of the clear-cut and the purpose of the clear-cut.

[1997, c. 720, §16 (new).]

**3. Reports.** Reports required under subsections 1 and 2 are due during the month of January. If the period of cutting under subsection 1 or 2 extends beyond December 31st of any calendar year, a report must be submitted during the month of January for the preceding year. A person filing a harvest notification form pursuant to section 8883-B must complete and return to the bureau a harvest report whether or not the landowner has harvested that year.

[2003, c. 452, Pt. F, §47 (amd); Pt. X, §2 (aff).]

**4. Confidentiality.** Information contained in reports filed under this section shall not be made public, except that summary reports may be published that use aggregated data which do not reveal the activities of an individual person or firm. Forms submitted pursuant to this section shall be available for the use of the State Tax Assessor pursuant to Title 36, chapter 105, subchapter II-A.

[1989, c. 555, §12 (new); c. 600, Pt. B, §11 (aff).]

**5. Disclosure.** Nothing in this section may be construed to prevent the disclosure of information to duly authorized officers of the United States and of other states, districts and territories of the United States and of the provinces and Dominion of Canada. The information shall be given only on the written request of the duly authorized officer when that officer's government permits the exchange of similar information with the taxing officials of this State and when that officer agrees that the information shall be used only for tax collection purposes.

[1989, c. 555, §12 (new); c. 600, Pt. B, §11 (aff).]

**6. Failure to submit report; penalty.** Failure to submit reports pursuant to this section constitutes a civil violation for which a fine not to exceed \$1,000 for each failure may be adjudged.

[2003, c. 452, Pt. F, §48 (new); Pt. X, §2 (aff).]

## §8886. Reports

The director shall produce the following reports. [1989, c. 555, §12 (new); c. 600, Pt. B, §11 (aff).]

**1. Harvesting practices.** Utilizing a sample of forest landowner reports and any other appropriate survey methods, the director shall tabulate an annual survey of the methods of harvesting and the harvest practices employed. The information on harvesting shall include, but not be limited to, the silvicultural prescriptions employed, the estimated acreage of various harvest methods, including clear-cutting, and the extent of whole-tree harvesting of both solid and chipped wood.

[1989, c. 555, §12 (new); c. 600, Pt. B, §11 (aff).]

**2. Annual price reports.** The bureau shall publish, annually, a report on prices as specified below. These reports must be reported by zones as determined by the director and must include a statewide average of all zones.

A. The reports must include stumpage prices paid for forest tree species of the State as reported pursuant to section 8885. Prices for other forest products may be collected using acceptable survey techniques.

[1997, c. 720, §18 (amd).]

B. The reports must include mill delivered prices paid by primary processors, wood wholesalers and wood brokers of the State.

[1997, c. 720, §18 (amd).]

## **§8887. Penalties**

(WHOLE SECTION TEXT REPEALED 7/1/04 by PL 2003, c. 452, Pt. F, §49 (rp); Pt. X, §2 (aff))

## **§8888. Enforcement**

Enforcement of this subchapter shall be by any state, county or municipal law enforcement officer, including forest rangers and field foresters of the Bureau of Forestry and wardens of the Department of Inland Fisheries and Wildlife.

[1989, c. 555, §12 (new); c. 600, Pt. B, §11 (aff).]